IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2914 OF 1994

1. President
Bahiramdeo Education Society
Ghodade, Tal.:Sakri, Dist.:Dhule

2. Secretary
Bahiramdeo Education Society
Sakri

3. Headmaster
Mahatma Jyotiba Phule Vidyalaya
Ghodade, Tal.:Sakri, Dhule ... Petitioners

V/s.

B.S. Gavale
At Kothali, Post: Kukawal,
Tal.:Shahada, Dist.: Dhule ... Respondent

Mr.P.N. Joshi for Petitioners
None for Respondent

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **JULY 7, 2005**

ORAL JUDGMENT:

. This Petition challenges the order of the School Tribunal directing reinstatement of the Respondent to his original post. The respondent was employed with the Petitioner-School on a temporary basis for the academic year August 1989 - 30.4.1990 vide a letter dated 7.8.1989. It appears that his services were continued thereafter on a temporary basis for a further period of one year. During this year, several complaints were

received by the school management against the respondent-teacher's misbehaviour with his colleagues, superiors and students. Complaints regarding his poor performance were also received. On 20.7.1990, an enquiry officer was appointed to investigate the complaints against the respondent. On the same date, i.e., on 20.7.1990, the respondent having been explained the gravity and the consequences of his misdemeanour, tendered an apology and an assurance that he would conduct himself properly in future. However, his services were not terminated. On 25.3.1991, on receipt of his termination order, the respondent approached the school tribunal after 5 months.

2. The School Tribunal has held that the complaints made against the respondent were not disclosed to him and, therefore, the termination was bad. As regards the contention of the petitioners that the respondent was appointed on a temporary basis, the Tribunal has not considered this factor at all. The order issued against the respondent terminating his services has been set aside since no objective assessment of the working of the respondent was made either by the head of the school or anybody else.

3. There can be no dispute that there were several

complaints made against the respondent. In fact, he has apologised for his improper behaviour after being told about the several complaints made against him by his colleagues, superiors as well as the students. Some of the complaints have also been annexed to the writ petition. The teaching performance of the Respondent was also not upto the mark.

4. The Tribunal has proceeded to set aside the order of termination without considering the fact that the Petitioners had appointed the respondent only on a temporary basis. The Respondent has claimed in his appeal that he was appointed on probation for 2 years. This fact has been refuted by the Petitioners by pleading in their written statement that he was a temporary appointee. The Tribunal has not cared to advert to this issue. A specific ground regarding this issue has been raised in the Petition. There is no reply from the Respondent. The Respondent’s employment was for a fixed period on a temporary basis. He has not been continued in employment by the Petitioners for the next academic year. This action is well within the Petitioners’ rights.

5. In these circumstances, the order of the Tribunal must be set aside. The impugned order is

quashed. Rule made absolute. No costs.